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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,259	12/29/2000	Victor Shao	50277-1525	4588

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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1089

EXAMINER	
ELALLAM, AHMED	

ART UNIT	PAPER NUMBER
2668	

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/751,259	SHAO ET AL.	
	Examiner	Art Unit	
	AHMED ELALLAM	2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-8 and 10-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-8 and 10-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *09/06/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This communication is responsive to Amendment filed on 10/28/2005. The amendment has been entered.

Claims 1, 3-8, 10-14 are pending and rejected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1, 3, 4, 8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brookler et al, US 2002/0007303 in view of Hamlin et al, US (6,754,635).

Regarding claims 1, 3, 8, 10, with reference to figure 1, Brookler discloses a method/a computer-readable medium carrying instruction for sharing surveys with a plurality of a survey respondents 16 (claimed on-line community) comprising:

A survey respondent 16 responds to a survey questions which is collected by a survey result (and analyses) database 22 (claimed gateway), the mobile device using a WAP (Wireless access Protocol) (claimed first protocol), the wireless having an interface (claimed user interface controls), see paragraph

[0031], (claimed establishing a first connection between a mobile device and a gateway using a first protocol; wherein the mobile device support a first protocol but not a second protocol); Examiner interpreted the use of the wireless devise having the wireless interface for transmitting the survey to the survey result database 22 as being the claimed establishing a first connection, because a connection need to be established for the receiving of the survey questions; and survey response using the wireless device as being the claimed receiving user input that indicates the opinion through user interface controls on the mobile device; and Brooker's ability of collecting the survey response of the wireless unit user by the survey result database 22, as being the claimed transmitting from the mobile device to the gateway, opinion data indicating the opinion, in a message that is not addressed to any specific member of the community, using the first protocol).

Transmitting the user surveys to the publishing engine 14 (claimed server) that publishes survey results after being analyzed, using a markup language see figure 6, step 96, paragraph [0065] and paragraph [0073]; (claimed storing opinion data as part of survey results at said server, the survey results reflects opinion data from a plurality of members of the online community).

Brookler, further discloses, with reference to figure 6, transmitting reports (claimed survey results) using different protocol such as HTML, from the publishing engine 14 to surveyors in response to received survey request (step 1 figure 1) received by the publishing engine in marked up protocol format (figure 6, unit 96).

Examiner interpreted the market-up language used between the database 22 and the publishing engine 14, as being the claimed usage of second protocol.

Brookler doesn't specify receiving, through user controls on a second mobile device, user input that request the survey results, the second mobile device being a member of the community and not the creator of the survey; transmitting, a request for the survey results, using the WAP protocol from the second mobile to the gateway, transmitting a request for the survey using the HTTP protocol from the gateway to the server; in response to the request received at the server using the HTTP protocol, transmitting the survey results, using the HTTP protocol to the gateway, and sending the survey results, using the WAP protocol, from the gateway to the second mobile device.

However, with reference to figure 1, Hamlin discloses a user having a client that communicate with a server using a wireless network link 120 for requesting survey data, wherein the user client is not the creator of the survey. See column 4, lines 60-67 and column 5, lines 1-7, and column 13, lines 13, lines 14-23.

Therefore, it would have being obvious to an ordinary person of skill in the art, at the time the invention was made to provide the mobile users of Brookler to request surveys without being the creators of the survey as taught by Hamlin. The advantage would be the ability to generate profits by providing survey results to requesting users.

(Note: the system of Brookler provides all the necessary hardware as indicated above (gateway server interfaces, etc..) for implementing the

method/computer-readable media as defined in the combined method of Brookler in view of Hamlin).

Regarding claims 4 and 11, Brookler discloses using a wireless connection between the mobile device 16 and the survey result database 22 (claimed transmitting opinion data from the mobile device to the gateway includes transmitting the opinion data over a wireless connection). In addition, with reference to figure 1, Brookler shows that the database 22 (claimed gateway) and publishing engine 14 (claimed server) are interconnected through the Internet, see also paragraph [0003]. (Claimed transmitting opinion data from the gateway to the server includes transmitting opinion data over a network to which both the gateway and the server are connected).

2. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brookler in view of Hamlin as applied to claim 1 above, and further in view of Parker et al, US 2002/0052774.

Regarding claims 5 and 12, Brookler in view of Hamlin discloses all the limitations of base claim 1, except they don't disclose receiving from publishing engine previous survey data (claimed opinion) prior to imputing the user response, wherein the user input is entered as a response to previous survey responses (claimed previous opinion), and the server storing an association between previous survey response and the survey response (claimed prior to receiving user input that indicates the opinion, the mobile device receiving from the server, previous opinion data that indicates an opinion previously stored on

the server, wherein the user input is entered as a response to the previous opinion data and the server storing an association between the previous opinion data and the opinion data).

However, Parker discloses with reference to figure 2, a follow-up survey to a previous survey, in which a server (unit 12, figure1) stores previous survey result and follow-up survey result, wherein a client's respondent to the follow-up survey is based on the previous survey stored at the server. See abstract, paragraphs [0004], [0005] and [0022].

Therefore, it would have being obvious to an ordinary person of skill in the art, at the time the invention was made to provide the surveying method of Brookler in view of Hamlin with the follow-up surveying of Parker, so that correlation between surveys can be provided in the system of Brookler in view of Hamlin, A person of skill in the art would be motivated by having the surveys of Brookler in view of Hamlin be more specific (Parker paragraph [0005]). The advantage would be the ability of Brookler in view of Hamlin's system to provide different levels of surveys, (Parker paragraph [0025]).

3. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brookler in view of Hamlin as applied to claim 1 above, and further in view of Plantec et al, US (6,826,540).

Brookler in view of Hamlin discloses all the limitations of base claim 1, except they don't explicitly disclose storing responses (claimed opinion data) and transmitting the opinion data with previously stored survey responses entered by

the user, (claimed the opinion data is stored within the mobile device; and the stored opinion data is transmitted from the mobile device to the gateway in a batch with other opinion data previously entered by the user of the mobile device).

However, Plantec discloses a survey input client that transmits responses of a survey as an answer file (claimed batch) after the survey being stored in the client computer, wherein the survey responses are previously entered by a survey participant. See column 9, lines 38-45 and column 35, lines 47-56.

Therefore, it would have being obvious to an ordinary person of skill in the art, at the time the invention was made to have the survey participant of Brookler in view of Hamlin stores the survey responses in their mobile devices so that the final surveys can be complete. The advantage would be more reliable and accurate survey results (Plantec column 1, lines 34-44) emanating from proper time given to participant to come up with the most reasonable opinion, given various circumstances between events that may change participant opinion.

4. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brookler in view of Hamlin as applied to claim 1 above, and further in view of Nardone et al, US (6,535,885).

Regarding claims 7 and 14, Brookler in view of Hamlin discloses all the limitations of base claim 1, except they don't explicitly disclose storing opinion data within the mobile while the mobile doesn't have a connection to the

gateway, and transmitting the stored opinion data after a connection is established between the mobile and the gateway.

However, Nardone discloses collection of data being stored in a PDA prior to establishing a wireless connection, see column 1, lines 32-39, and column 3, lines 19-25. It would have being obvious to an person of ordinary skill in the art, at the time the invention was made to make the opinions stored at the mobile device of Brookler in view of Hamlin prior to establishing a connection as taught by Nardone so to save the power of the mobile while the opinion is not finished yet. It would be also advantageous to store survey data by Brookler in view of Hamlin' users in places where the mobile is incapable of establishing a connection with the gateway, enabling the users to participate in surveys without being continuously connected to the network.

Response to Arguments

1. Applicant's arguments filed on 10/28/2005 have been fully considered but they are not persuasive:

Applicants Argued in general that that "The prior art, even if properly combined, fails to teach, disclose, or suggest, the combination of elements featured in each pending claim", and in particular that the prior art of Hamlin does not teach or suggest the featured example of claim 1, which recites:

> *receiving, through user interface controls on a second mobile device, user input that requests said survey results,*
>
> *wherein the second mobile device is a mobile device of a member of the*

community and not the creator of the survey;

Applicants stated: "according to the approach of Hamlin, the client that receives the survey results is the same client that **created the survey**". Emphasis added. Applicant also argued that: "*The portion of Hamlin cited by the Office Action to show these features (Col. 4, lines 60- 67; Col. 5, lines 1-7; and Col. 13, lines 13-23) merely discusses (a) a communication interface 118 (such as a modem) to a computer system, and (b) requesting data from a survey taker, prior to the survey taker taking the survey, to customize the survey to be taken by the survey taker.* ***Neither of these concepts is analogous to a mobile device of someone other than the creator of the survey requesting the survey results****. In fact, Hamlin makes clear that the client that develops the survey receives the survey results, but the survey takers do not receive the survey results (see steps 602, 604, 606, and 634 of FIG. 6, and the corresponding explanation in the detailed description, as well as Col. 5, lines 40-60).*

Examiner respectfully disagree, the claimed subject matter is unpatentable over Brookler in view of Hamlin, because:

As to claims 1 and 8, the "second mobile device being a device for a member of the community and **not the creator of the survey"** is interpreted as being the same as the "second mobile device being a device for a member of the community and **not participating in the survey**".

According to Hamlin, the creator of the survey doesn't participate in the survey. Therefore, Applicant interpretation of Hamlin being the creator of the survey is erroneous since the claim does not provide a clear distinction between

creating a survey and participating in the survey. Stated differently, it is not clear if the participating subscriber in the survey is a creator of the survey or not. Applicants are kindly requested to explain whether or not a participating member (such as first member) is a creator of the survey. Such explanation is needed to clarify the distinction between Applicants claimed invention and the teaching of Hamlin.

In addition, requesting a survey according to Hamlin requires an input by the client as indicated on column 6, lines 64-67 and column 7, lines 1-4. Several options are presented to the client of Hamlin in requesting a specific survey. Since the client is not involved in the actual participation of the survey, the request for the survey is different from the actual creation of the survey as contended by Applicants.

Moreover, Hamlin describes in more details how a request of a survey(s) by non participants is made, while contrary to Applicant, no details (at least in the argument) are given in requesting the survey by a non participating subscriber. Therefore, Lacking details in requesting surveys by a non participating member is not a ground for comparison to Hamlin detailed teaching of surveys requests.

Lastly, Examiner notes getting surveys over a mobile phone without creating or giving opinion is well known in the art. Such limitation is believed to be the core limitation of the claimed invention, since all the other limitations are met either explicitly, implicitly or based on common knowledge, such as gateways, servers, interfaces, ..etc. (as in claims 1 (and 8)). As an Example of a subscriber requesting surveys results using a mobile phone would be any web-

phone user having access to Internet, the user can access the Washington post web page for example and look for the Redskins rating, the subscriber is presented with ready survey as well as request for his own opinion. This is but one example, other examples of requesting surveys without being the creator or a participant are well known in the art prior to Applicant's invention.

Examiner, believes that, given the claim limitations the most reasonable interpretations, the rejection above is proper.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AHMED ELALLAM whose telephone number is (571) 272-3097. The examiner can normally be reached on 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kizou Hassan can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHMED ELALLAM
Examiner
Art Unit 2662
January 27, 2006

JOHN PEZZLO
PRIMARY EXAMINER